IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Income Tax Appeal No.666 of 2005
Date of decision: October 16, 2006

M/s Munjal Sales Corporation, Ludhiana

v.

Commissioner Income Tax, Central Circle-I, Ludhiana and another

Present: Mr. Akshay Bhan, Advocate for the appellant.
Mr. S.K.Garg Narwana, Advocate for the respondents.

CORAM:
Hon'ble Mr.Justice Adarsh Kumar Goel
Hon'ble Mr. Justice Rajesh Bindal

Rajesh Bindal, J.

This appeal by the assessee is directed against order dated 21.6.2005/25.7.2005, passed by the Income-tax Appellate Tribunal, Chandigarh Bench `A' (for short, `the Tribunal') in I.T.A. No. 973/CHANDI/98, for the assessment year 1995-96, raising the following substantial questions of law:

> "(i) Whether in the facts and circumstances of the present case, order vide Annexures A.1 to A.3 are based on mis-appreciation of facts and law involved in the case and liable to be set aside, especially when the provisions of Section 36(1)(iii) of the Income Tax Act, 1961 are not applicable in the instant case ?
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> (ii) Whether in the facts and circumstances of the case, the action of the authorities below in disallowing the interest of Rs. 1,82,267/- being 15% of the total amount of interest free loan advanced by the appellant to its sister concern, without consideration of this important fact that the assessee/appellant is earning profits of more than 1 crore and therefore the interest free loan is far below than the amount of profit earned in the relevant assessment year 95-96, is liable to be set aside ?
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> (iii)Whether the action of the authorities below in disallowing the interest free loan so advanced by the appellant to its sister concern without specifying as to from which claim of interest paid, the

disallowance has been made, is unsustainable and liable to set aside ?

(iv) Whether in the facts and circumstances of the present case, the action of the authorities below in disallowing the interest of Rs. 1,82,267/- without considering the fact that all the advances so made were old ones and no advance was made during the assessment year 95-96, is legally sustainable in the eyes of law ?

(v) Whether in the facts and circumstances of the present case, the action of the authorities below in disallowing the interest for the relevant AY 95-96 without any change in the circumstances, when the same was allowed during the previous year i.e. AY 93-94, is legally sustainable in the eyes of law ?

(vi) Whether the action of the authorities below in disallowing the interest in the hands of the firm and simultaneously not allowing any relief in the hands of the partners by reducing the interest taxable in their hands by the same amount, without considering the provisions of Section 28(v) of the Income Tax Act, 1961, so as to avoid double taxation of the same income, is unsustainable in the eyes of law and is liable to be set aside ?

(vii) Whether in the facts and circumstances of the present case, the action of the Ld. Tribunal in allowing the telephone expenses so claimed by the assessee/appellant partly and not fully, is arbitrary and merits reconsideration ?

(viii) Whether the action of the authorities below acting of its own presumption is legally sustainable ?

(ix) Whether in the facts and circumstances of the present case, the advancement of the interest free loan by the assessee/appellant to its sister concern, is in due course of business, is legally sustainable ?

(x) Whether the action of the assessing officer in excluding its jurisdiction by acting merely on its presumption and right in the eyes of law ?

(xi) Whether in the facts and circumstances of the case, Annexures A.1 to A.3 are legally sustainable?"

The above appeal was disposed of by the Tribunal by a common order passed for the assessment years 1995-96 and 1996-97. Appeal filed by the assessee for the assessment year 1996-97 has been disposed of vide separate order passed today in I.T.A. No.667 of 2005.

For the reasons recorded therein, the present appeal is disposed of in the same terms.

(Rajesh Bindal)
Judge

(Adarsh Kumar Goel)
Judge

October 16, 2006
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